THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.27853 OF 1995

ORAL ORDER:

The 1st petitioner-M. Malla Reddy, made a declaration under the provisions of the Urban Land (Ceiling and Regulation) Act, 1976 (for short "the Act"), in respect of the land held by him. The 3rd respondent-Special Officer and Competent Authority under the Act, after considering the objections raised by the 1st petitioner, by proceedings dated 4.2.1987 determined that the 1st petitioner is holding surplus vacant land to the extent of 9066.50 meters. Though the 1st petitioner preferred an appeal, the same was dismissed by the 2nd respondent by order dated 1.10.1992. Thereafter, the petitioner filed an application under Section 20(1) of the Act, before the 1st respondent seeking exemption, which was rejected by order dated 22.7.1995.

Hence, this writ petition seeking a declaration that the order of the 1st respondent dated 22.7.1995 as well as the orders of the respondents 2 and 3 dated 1.10.1992 and 4.2.1987, respectively, are arbitrary and illegal.

During the pendency of this writ petition, the 1st petitioner died on 28.2.1990 and the petitioners 2 to 5 herein are brought on record as his legal representatives.

I have heard the learned counsel for both the parties.

It is primarily contended by the learned counsel for the petitioners that since the land in question is not covered by the approved Master Plan at the time of the commencement of the Act, the same cannot be treated as a vacant land and, consequently, the impugned orders are arbitrary, illegal and liable to be set aside on that ground alone.

In the counter-affidavit filed on behalf of the respondents, thought the fact that there was no approved Master Plan at the time of the

commencement of the Act has not been denied, it is pleaded that the land in question was not an agricultural land and the same is liable to be treated as vacant land and, consequently, fall within the purview of the Act.

In **State of Andhra Pradesh v. B. Komaraiah**[1], a Division Bench of this Court having considered an identical question held as under:

> " Therefore, the only conclusion that can be arrived is that as and when any land, which was not vacant at the time of commencement of the Act becomes vacant on a subsequent date, the holdings of the persons have to be decided with reference to the subsequent date on which the land becomes vacant. Any adjudication in respect of such lands with reference to the date of commencement of the Act cannot be sustained. Admittedly, in the present case, the land in question came to be treated as vacant land with effect from 29.09.1980 on which date the new master plan was published. It is not in dispute that the holdings of the respondents were decided with reference to 17.12.1976 i.e., the date of commencement of the Act. Therefore, the order passed by the 2nd respondent under Section 8(4) of the Act dated 7.4.1990 as well as the order passed by the appellate authority on 22.01.1991 are set aside."

It is submitted by the learned counsel for both the parties that the issue involved in this writ petition is squarely covered by the above decision and, therefore, the holding of the declarant is required to be decided with reference to the date on which the extended Master Plan has come into operation.

Accordingly, the impugned orders dated 4.2.1987 and 1.10.1992 are hereby set aside and the matter is remanded to the 3rd respondent for consideration afresh in the light of the principles laid down by the Division Bench in **State of Andhra Pradesh v. B. Komaraiah** (1 supra). No costs.

24.10.2006.

Klp/kgr

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.27853 OF 1995

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24th October, 2006.

Between:

E. Malla Reddy. .. Petitioner.

And

Government of Andhra Pradesh (Revenue) Department, represented by its Secretary, Secretariat, Hyderabad and others. .. Respondents.

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[1] 2002(1) ALT 787 (DB).